

# HOUSE BILL REPORT

## ESSB 5889

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**As Reported by House Committee On:**  
Education

**Title:** An act relating to flexibility in the education system.

**Brief Description:** Providing flexibility in the education system.

**Sponsors:** Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators Hobbs, McAuliffe, McDermott and Oemig).

**Brief History:**

**Committee Activity:**

Education: 3/20/09, 3/27/09 [DPA].

**Brief Summary of Engrossed Substitute Bill  
(As Amended by House)**

- Repeals, modifies, or suspends for two years certain laws related to notice and reporting by the Office of the Superintendent of Public Instruction (OSPI) and school districts, and required actions by school districts in the areas of curriculum, courses, assessments, and student plans.
- Modifies certain notice and reporting requirements by permitting online access to information to be sufficient, unless written information is specifically requested by a parent.
- Repeals two award programs and allows the OSPI to publish the Common School Manual online.

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### HOUSE COMMITTEE ON EDUCATION

**Majority Report:** Do pass as amended. Signed by 13 members: Representatives Quall, Chair; Probst, Vice Chair; Priest, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Cox, Dammeier, Hunt, Johnson, Liias, Maxwell, Orwall, Santos and Sullivan.

**Staff:** Barbara McLain (786-7383)

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

## **Background:**

Title 28A of the Revised Code of Washington contains most of the laws pertaining to Washington's public school system. School districts are political subdivisions of the state whose structure, duties, and responsibilities are established by state law, with functions to be carried out under the direction of elected boards of directors. The Superintendent of Public Instruction is assigned by the state Constitution to have supervision over all matters pertaining to the common schools, but most of the duties of the Office of the Superintendent of Public Instruction (OSPI) are established in law.

There are a number of laws requiring the OSPI to provide information to school districts or requiring school districts to provide information to parents and students about health issues, educational options, and state policies. Other laws direct school districts to take certain actions in the areas of curriculum, courses, assessments, and student plans. Legislation enacted in 1986 established an Award for Excellence in Education, and in 1990 an Award for Excellence in Teacher Preparation was established. Neither award program has been funded in recent years. Annually, the OSPI is required to publish and distribute copies of all education-related laws and rules in the Common School Manual at no cost for the public school system, and sell the volume at cost to any other public or private agencies.

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## **Summary of Amended Bill:**

A number of laws related to information, notice and reporting, and required actions by school districts in the areas of curriculum, courses, assessments, and student plans are repealed, suspended, or modified.

The following requirements are repealed:

- The OSPI must include information in traffic education courses on the proper use of the left-hand lane, motorcycle awareness, and driving safely among bicyclists and pedestrians.
- Any course in Washington State history and government must include content areas such as commerce, the Constitution, state geography, and state history and culture.
- The OSPI must require districts to annually inform high school students that employers may request transcripts.
- School districts are encouraged to adopt curriculum for a family preservation education program.
- On or before January 1, 2002, the OSPI must make a report on grants awarded under the Washington Civil Liberties Public Education Program.
- The OSPI must encourage districts to use community service as an alternative to suspension and distribute information on existing programs.
- The OSPI must submit an application to the U.S. Department of Education on flexibility in the state's assessment and conduct a pilot project in selected districts.
- A federal grant for school-to-work transition projects must be structured in a particular manner.
- The OSPI issues an Award for Excellence in Education and the Professional Educator Standards Board issues an Award for Excellence in Teacher Preparation.

- Student learning plans are required for 5th and 8th through 12th grade students who were not successful on the Washington Assessment of Student Learning or who may not be on track to graduate due to credit deficiencies or absences.

The following requirements are suspended until July 1, 2011:

- The OSPI must provide a manual of the Common School Code to public agencies within the common school system and sell it to other public and nonpublic agencies.
- The OSPI must provide an annual report to the Legislature on the educational experiences and progress of students in foster care.
- School districts must provide all high school students with the option to take a common math college readiness test, beginning in the fall of 2009 and subject to funding.
- The OSPI, by the 2010-11 school year, must develop assessments of the technology learning standards and make them available for voluntary use.

The following requirements are also suspended:

- School districts must conduct classroom-based assessments in civics in elementary grades, suspended until the 2010-11 school year.
- The OSPI must provide high schools with contact information for programs offering college credit, and high schools must publish entrance requirements and the availability of local programs that lead to college credits, suspended until the 2011-12 school year.

The following requirements are modified to allow online notice or information, or to provide written information only at the request of a parent:

- The OSPI must provide online notice of the State Board of Health rules regarding contagious diseases only when there are significant changes.
- The OSPI must provide online access to, rather than printing and distributing, rules and forms for visual and auditory screening.
- Public and private schools must provide online access to information about the meningococcal and human papillomavirus diseases, unless a parent specifically requests the information in writing.
- Schools must provide online information to students and parents about compulsory attendance laws, unless a parent specifically requests the information in writing.
- The OSPI must annually provide online access to information regarding enrollment options, unless a parent specifically requests the information in writing.
- School districts must annually provide online information about intradistrict and interdistrict enrollment options, unless a parent specifically requests the information in writing.
- Schools must provide written notice of the school's pesticide use policy and methods on request rather than annually.
- Schools must provide online information to parents about opportunities available to students through educational pathways, unless a parent specifically requests the information in writing.

The following requirements are modified:

- A school district that has received approval for its plan for using funds for the Learning Assistance Program is not required to resubmit a plan unless the district has

made a significant change. The OSPI must establish guidelines defining a "significant change."

- The OSPI cannot require school districts to use classroom-based assessments in social studies, arts, and health and fitness and must clearly communicate that districts have the option to use other strategies chosen by the district. Verification reports can require districts to report only information needed to assure compliance.
- The state education technology plan can impose on school districts only what is necessary to meet federal requirements or eligibility for a federal telecommunications subsidy.
- The Superintendent of Public Instruction is required to make the Common School Manual available online, rather than publish and distribute it for free to public school agencies, and is authorized to charge any agencies for hard copies rather than just non-public school agencies.
- Ophthalmologists, optometrists, or opticians who donate their services may perform visual screening in public schools.

#### **Amended Bill Compared to Original Bill:**

Provisions are removed that dealt with visual and auditory screening, immunization, and repeal of a requirement that districts provide information about Running Start to high school students. The list of repealed requirements is expanded to include the OSPI encouraging districts to use community service as an alternative to suspension; the OSPI submitting an application for flexibility in federal assessment requirements; requirements pertaining to school-to-work transition projects from a federal grant; and the Awards for Excellence in Education and Excellence in Teacher Preparation. The state education technology plan can impose on school districts only what is necessary to meet federal requirements or eligibility for a federal telecommunications subsidy. The OSPI cannot require school districts to use classroom-based assessments and must clearly communicate that districts have the option to use other strategies chosen by the district. Rather than suspend the Common School Manual until July 1, 2011, the Superintendent of Public Instruction is required to make it available online and authorized to charge any agencies for hard copies rather than just non-public school agencies. Ophthalmologists, optometrists, or opticians who donate their services may perform visual screening in public schools.

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**Appropriation:** None.

**Fiscal Note:** Available for substitute bill.

**Effective Date of Amended Bill:** The bill contains an emergency clause and takes effect immediately.

#### **Staff Summary of Public Testimony:**

(In support) Every time we turn around, the Legislature has added another unfunded mandate to schools. The Common School Manual is a giant tome. The last time there was a comprehensive review, only two provisions were repealed. We have made efforts to strip out

individual mandates, one-at-a-time. This time we're trying to tackle the issue in three chunks. There's a risk. Everyone can identify some small piece that should be removed from the bill, but if you let that happen, you'll be left with nothing. Desperate times call for desperate measures. In a difficult budget year, even easing some burden on school districts will help. Will this save some money? Probably a little. Will it solve all of our problems? Probably not. Nevertheless, this bill sends a clear signal to the public and to the Legislature that unfunded mandates really do matter. There are some additional items that could be considered. If school districts had all the funding they were supposed to have, we wouldn't be here doing these bills. The largest unfunded mandate is the underfunding of Basic Education. These items are small, but provide administrative relief.

(With concerns) Eliminating the student learning plans will truly save a lot of money and time for schools, but there is concern about eliminating a variety of requirements related to health. Schools do not have enough nurses, and trained staff are essential. There is also concern that many parents do not have access to the Internet or do not speak English as their first language. Important communication from schools will go unnoticed for parents who don't know what they don't know, and don't know to ask. In particular, there is concern about communicating to parents about enrollment choices, compulsory attendance, and parent involvement. There is not a lot of information that comes home with students.

(Opposed) Removing the requirement for visual and auditory screening is opposed. These are fundamental building blocks for school success. If you are seeking cost savings, you should consider giving optometrists and other vision professionals the opportunity to do screenings as volunteers. They are currently prohibited from volunteering their services in schools. If you can't see or hear adequately; you can't learn. Hearing issues need to be detected early. There is disagreement about voluntary testing by optometrists. Studies have been done that indicate some individuals, who have a financial interest in the outcome of the screening, have taken advantage of this opportunity, and the result is that more children are told they need glasses. That is why the prohibition is in the rules.

**Persons Testifying:** (In support) Senator Hobbs, prime sponsor; Dan Steele, Washington State School Directors Association; Bob Butts, Office of the Superintendent of Public Instruction; Mitch Denning, Alliance of Education Associations; and Barbara Mertens, Washington Association of School Administrators.

(With concerns) Lucinda Young, Washington Education Association; and Kim Howard, Washington State Parent Teacher Association.

(Opposed) Brad Tower, Optometric Physicians of Washington; Susie Tracy, Washington Academy of Eye Physicians and Surgeons; Melissa Johnson, Washington Speech and Hearing Association; and Kathleen Collins, Washington Academy of Family Physicians.

**Persons Signed In To Testify But Not Testifying:** None.